

DOCKET NO: 246008US2



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
HIDEKI SHOJI : EXAMINER: TIBBITS, P. F.
SERIAL NO: 10/721,464 :
FILED: NOVEMBER 26, 2003 : GROUP ART UNIT: 2838
FOR: METHOD AND APPARATUS FOR :
CONFIRMING THE CHARGE
AMOUNT AND DEGRADATION
STATE OF A BATTERY, A
STORAGE MEDIUM, AN
INFORMATION PROCESSING
APPARATUS, AND AN
ELECTRONIC APPARATUS

PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Election of Species Requirement mailed December 12, 2005, Applicant provisionally elects, with traverse, Species I, for examination on the merits in the present application. Claims 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, and 23 are identified as readable on Species I.

Applicant respectfully traverses the Election of Species Requirement because the PTO has not carried forward its burden of proof to establish that searching and examining the claims corresponding to the noted figures would be an undue burden.

In particular, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention would appear to be part of an overlapping search area.

Accordingly, Applicant respectfully traverses the outstanding Election Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

Regarding the objection to Claims 31-42 and 45-78, Applicant respectfully requests that this objection, which is not necessary for further consideration of the elected claims, be held in abeyance until allowable matter is indicated (see 37 C.F.R. § 1.111(b)).

Regarding the statement of the outstanding Office Action that the Information Disclosure Statement (IDS) filed on February 24, 2004, fails to comply with the patent rules because no concise explanation of the foreign language references has been provided, Applicant notes that MPEP 609.04(a) III, second full paragraph, states that "[s]ubmission of an English language abstract of a reference may fulfill the requirement for a concise explanation." As the IDS filed on February 24, 2004, includes an English language abstract for each disclosed foreign reference, Applicant respectfully requests the next Office Communication to initial each disclosed reference as considered and to return to Applicant's representative the initialed 1449 form.

Respectfully submitted,

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